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Director's Office
Group 2700

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In re Application of:
David C. Dryer, et al.
Application No.: 08/767,928
Filed: December 17, 1996
For: SELECTION OF GRAPHICAL USER
INTERFACE AGENTS BY CLUSTER
ANALYSIS

DECISION *SUA SPONTE* TO
WITHDRAW HOLDING OF
ABANDONMENT

This is a decision *Sua Sponte* to Withdraw Holding of Abandonment for the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed June 8, 1999. A Notice of Abandonment was mailed December 28, 1999.

On December 21, 1999, applicant faxed in copies of a Transmittal Letter and Amendment, each bearing a certificate of mailing dated October 6, 1999; a check for \$110.00; a self addressed postcard receipt; a letter addressed to Marilyn Smith Dawkins, Esq. of the IBM Corporation, and a statement from Anne Zohlen, whose signature appears on the certificate of mailing on each paper, attesting to the previous timely mailing of the correspondence listed above. The transmittal letter indicates that the check is for the fee for a one month extension of time and includes authorization to charge "any patent application processing fees under 37 C.F.R. § 1.17" to the practitioner's deposit account. A review of Patent Office PALM Fee History records does not indicate that the check for \$110.00 was processed for the above-identified application.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition complies with the requirements set forth in 37 C.F.R. § 1.8(b). Additionally, the petition contains an authorization to charge the requisite fee to the practitioner's deposit account. Therefor, the fees are considered to have been timely filed even though the check was not received.

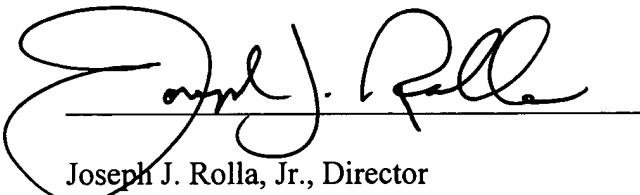
Accordingly, the application was not abandoned in fact and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The Associate Power of Attorney and Change of Correspondence Address filed January 18, 2000, is hereby acknowledged. Please note that although the paper is acceptable as filed, Andrea Pair Bryant, the person to whom correspondence is to be directed, is not listed on the Associate Power of Attorney.

Additionally, since the check for \$110.00 for the fee for a one month extension of time was not received, the fee will be charged to the practitioner's deposit account.

The application file is being forwarded to the technical support staff for entry of the amendment, whereafter it will be forwarded to the examiner for further examination.



Joseph J. Rolla, Jr., Director
Technology Center 2700
Communications & Information Processing